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CHRISTINA SANCHEZ

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SECOND IMAGE, INC., a California  
corporation

Plaintiff,

vs.

RON SIN PHOTOCOPY, INC., a California  
Corporation; CHRISTINA SANCHEZ, an  
individual; and DOES 1-10

Defendants.

Case No. C 07 5242 PJH

**DEFENDANT CHRISTINA SANCHEZ'S  
REPLY TO PLAINTIFF'S OPPOSITION  
TO SANCHEZ'S AMENDED MOTION  
TO DISMISS FIRST AMENDED  
COMPLAINT**

**Date: February 27, 2008  
Time: 9:00 AM  
Dept.: 3  
Hon. Phyllis J. Hamilton**

AND RELATED CROSS-CLAIM.

**I. THE FIRST AMENDED COMPLAINT DOES NOT ALLEGE SPECIFIC  
FACTS WHICH, IF PROVEN, WOULD MAKE DEFENDANT SANCHEZ  
LIABLE AS A CO-CONSPIRATOR FOR VIOLATION OF ANY FEDERAL  
LAW**

Paragraph 27 of the First Amended Complaint ("FAC") alleges that undifferentiated  
"Defendants," not defendant Sanchez, have knowingly and with intent to defraud, accessed  
plaintiff's protected computer without authorization, and by means of such conduct have  
furthered their intended fraud and obtained proprietary business information of plaintiff.

1 Similarly, the general allegations in paragraphs 20 through 23 of the FAC do not  
 2 allege that defendant Sanchez did any particular act that violated any federal statute. Instead,  
 3 those paragraphs allege, for example, that “Defendants” entered into an agreement to commit  
 4 the alleged wrongs (paragraph 20); “Defendants” portrayed Sanchez as a bona fide consumer  
 5 of plaintiff’s services and hacked into other clients’ accounts (paragraph 21); “Defendants”  
 6 have made false representations about the security of records hosted on plaintiff’s website  
 7 (paragraph 22); and “Defendants” gained unlawful access to plaintiff’s non-public and  
 8 proprietary information (paragraph 23).

9 In a civil conspiracy action, which is essentially what this action is in regard to  
 10 defendant Sanchez, “courts insist upon a higher level of specificity than is usually demanded  
 11 of other pleadings...” *Wasco Products v. Southwall Technologies*, 435 F.3d 989, 991 (9<sup>th</sup> Cir.  
 12 2006), quoting from *Alfus v. Pyramid Tech. Corp.*, 745 F.Supp. 1511, 1521 (N.D.Cal.1990).  
 13 See also FRCP 9(b), which provides that allegations of fraud “shall be stated with  
 14 particularity.”

15 Plaintiff has no difficulty pleading specific allegations of alleged wrongful conduct  
 16 on the part of defendant Ronsin Photocopy; see paragraph 19 of the FAC. There are no such  
 17 specific allegations against defendant Sanchez. The vague and general “conspiracy”  
 18 allegations in the FAC should not be held sufficient to subject Christina Sanchez to federal  
 19 subject matter jurisdiction.

20 **II. DEFENDANT SANCHEZ DOES NOT HAVE THE LEGAL CAPACITY TO**  
 21 **COMMIT THE WRONGS ALLEGED IN THE FAC AND SHE THEREFORE**  
 22 **CANNOT BE LIABLE FOR THOSE ACTIONS UNDER A CIVIL**  
**CONSPIRACY THEORY**

23 Paragraph 20 of the FAC alleges that “Defendants” entered into an agreement to  
 24 unlawfully gain access to plaintiff’s private website, so as to gain access to Second Images’s  
 25 trade secrets, pilfer plaintiff’s clients and obtain an unfair business advantage over plaintiff.  
 26 Paragraph 27 alleges that “Defendants” knowingly and with intent to defraud accessed  
 27 plaintiff’s protected computer without authorization and have obtained proprietary business  
 28 information of plaintiff.

